

1997-98 SESSION
COMMITTEE HEARING
RECORDS

Committee Name:

Joint Committee on
Finance (JC-Fi)

Sample:

Record of Comm. Proceedings ... RCP

- 05hrAC-EdR_RCP_pt01a
- 05hrAC-EdR_RCP_pt01b
- 05hrAC-EdR_RCP_pt02

➤ Appointments ... Appt

➤ **

➤ Clearinghouse Rules ... CRule

➤ **

➤ Committee Hearings ... CH

➤ **

➤ Committee Reports ... CR

➤ **

➤ Executive Sessions ... ES

➤ **

➤ Hearing Records ... HR

➤ **

➤ Miscellaneous ... Misc

➤ 97hrJC-Fi_Misc_pt92c_LFB

➤ Record of Comm. Proceedings ... RCP

➤ **

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Environmental Performance Council (DNR -- Water Quality)

[LFB Summary: Page 445, #22]

CURRENT LAW

No provision.

GOVERNOR

Create an Environmental Performance Council in DNR to advise the Governor and the Secretary of DNR concerning efforts to improve the environmental performance of businesses and local governments and environmental management systems. Include the following:

- a. Specify that the Council would have 11 members: (1) the Secretaries of Commerce, DNR and DOA or their designees; and (2) eight other members appointed by the Governor for four-year terms. The Governor would designate a chairperson.
- b. Create a SEG, continuing appropriation with \$90,000 annually from the environmental management account of the environmental fund to support the operations of the Council. Create a PR, continuing appropriation to accept all money received from gifts or grants to the Council to be used for the purposes for which made. No PR expenditure authority would be provided.
- c. Direct the Council to advise the Governor and the Secretary of DNR concerning all of the following: (1) ways to integrate the state's efforts related to environmental management systems with national and international activities related to environmental management systems;

(2) the development of incentives to promote superior environmental performance by businesses and local governments; (3) ways that the public sector and the private sector can work together to make the most effective use of resources to enhance environmental performance and the competitiveness of the state's businesses; (4) ways to ensure that the state's methods of environmental regulation comply with federal law; (5) the development of a method for certifying environmental management systems that is compatible with standards issued by the International Organization for Standardization (also known as ISO 14000 standards); (6) the evaluation of: (a) projects designed to demonstrate the effectiveness of environmental management systems, (b) efforts to provide the public with more information about environmental matters, and (c) granting environmental regulatory flexibility in improving environmental performance by businesses and local governments; and (7) state policies, rules and programs that would enhance the competitiveness of the state's businesses and opportunities for the state's businesses and residents through improvements in environmental performance and the quality of products.

d. Authorize, but do not require, the following agencies to designate staff to support activities of the Council: DNR; DOA; Commerce; and the UW-System.

e. Direct the Council to submit an annual report on its activities to the Legislature, Secretary of DNR and the Governor.

DISCUSSION POINTS

Structure

1. The Council would discuss issues related to the environmental performance of businesses and local governments, environmental management systems and standards for environmental management systems issued by the International Organization for Standardization (known as ISO 14000 standards). An environmental management system is an organized set of procedures implemented by the owner or operator of a facility to evaluate the environmental performance of the facility and to achieve measurable or noticeable improvements in environmental performance through planning and changes in the facility's operation. DNR indicates that the Council would also review the environmental cooperation pilot agreements under the bill. The bill directs the Council to evaluate projects designed to demonstrate the effectiveness of environmental management systems.

2. The state may become increasingly involved in issues related to environmental performance, environmental management systems and international environmental standards. Under current law, the Governor may, by executive order, create nonstatutory committees to conduct studies and provide advice. Further, any departmental secretary may create and appoint such councils or committees as the operation of the department requires.

3. There is currently an ad hoc ISO 14000 Work Group of people who have chosen to meet to discuss ISO 14000 issues. The group is comprised of representatives of industry, public interest environmental groups, law firms, the DNR, Commerce, University of Wisconsin, Technical College System and the Governor's Office. The group reviews issues related to environmental management systems and implementation of ISO 14000 standards.

4. It could be argued that the statutory creation of a council to provide advice to the Governor and DNR on efforts to improve environmental performance and environmental management is unnecessary because the Governor or the Secretary of DNR currently have the ability to appoint such bodies. In addition, the question could be raised whether the creation of another statutory council is consistent with the recent report from the Lieutenant Governor on boards and councils which recommended that: (a) ad hoc committees be used for specific purposes and then disbanded until needed again instead of creating councils that would continue indefinitely; (b) all councils created in the future be established with an automatic sunset; and (c) councils be continued or created only if they perform a necessary, cost-effective function, are required by federal law, are not duplicated by other public or non-public entities and have clearly defined, measurable goals. Further, if the state wishes to streamline its operations, the review of environmental issues by another organization could be viewed as an additional step in administration of state programs.

5. The Council would have three state agency representatives and eight public members appointed by the Governor. The UW-System would be the only agency authorized to staff the Council that would not have a representative on the Council. The UW-System is currently working with DNR on ISO 14000 issues. The bill does not propose legislative input into the composition of the Council. The membership of the Council could be modified to replace five of the public members appointed by the Governor with the President of the UW-System, or her designee, and four public members appointed by legislative leadership (one each appointed by the Speaker and Minority Leader of the Assembly and the Majority and Minority Leaders of the Senate). Further, the Council could be given the authority to appoint a chairperson (rather than the Governor under the bill).

6. It could be argued that if the Council is created, it should be with a sunset date. For example, the Council could be created with a sunset of June 30, 2001 (four years).

Funding

7. Less than half of the funding under the bill would be used for the activities of the Council. DNR prepared a proposed budget, shown in the following table, that includes \$43,500 in 1997-98 and \$34,500 in 1998-99 for Council expenses. The majority of funding would pay for travel by DNR staff, UW-Madison La Follette Institute staff and public interest group representatives to meetings of the Multi-State ISO 14000 Working Group and a continuation of DNR participation in a Wharton School ISO 14000 Roundtable discussions. The Multi-State ISO

14000 Working Group is a group of 11 states that meets monthly (every other month the meeting is by telephone) to discuss ISO 14000 implementation. The Wharton School ISO 14000 Roundtable consists of three to four meetings per year on the topic of ISO 14000, involving government, business and environmental group participants and sponsored by the Wharton School of the University of Pennsylvania, the Pennsylvania Department of Environmental Protection, the Robert M. La Follette Institute of Public Affairs at the University of Wisconsin-Madison and the Wisconsin DNR.

Proposed Budget for the Environmental Performance Council

	<u>1997-98</u>	<u>1998-99</u>
Environmental Performance Council		
Member expenses	\$9,500	\$9,500
Report to Governor and Legislature	0	2,500
Staff expenses (travel, telephone, mail)	5,500	5,500
Expert materials, tapes	1,000	2,000
Orientation and advice by experts	16,000	6,000
DNR staff fact finding travel to other states	5,000	2,500
Supplies and services	<u>6,500</u>	<u>6,500</u>
Subtotal	\$43,500	\$34,500
 Multi-State ISO Working Group, Federal Meetings and Wharton School Roundtable		
DNR travel to meetings in other states	\$20,000	\$20,000
UW-Madison La Follette Institute travel and supplies	9,500	9,500
Travel costs for public interest environmental groups	7,000	7,000
Materials related to ISO 14000 and environmental management systems	2,500	5,500
DNR staff training related to ISO 14000	7,500	7,500
Technical consultants	<u>0</u>	<u>6,000</u>
Subtotal	\$46,500	\$55,500
 TOTAL	 \$90,000	 \$90,000

8. In the past year, DNR has spent approximately \$27,100 from a variety of funding sources on activities related to ISO 14000, including: (a) approximately \$14,300 on the Department's participation in the Multi-State Working Group and Wharton School Roundtable; and (b) approximately \$12,800 on meetings with the ad hoc ISO 14000 work group, development of an Internet web site, travel, publications and DNR attendance at conferences.

9. The provision would provide the only appropriation in DNR that specifically supports the administration of a council, board or advisory group. Examples of other DNR advisory entities and associated expenses are the DNR Board with 1995-96 expenses of \$23,200 paid from federal administrative overhead cost reimbursements related primarily to fish and wildlife programs, the Council on Recycling with 1995-96 expenses of \$4,400 paid from the

recycling fund and the Off-the-Road Vehicle Council with 1995-96 expenses of \$4,500 paid from the conservation fund. Under the bill, the Environmental Performance Council would have a separate appropriation almost four times greater than the expenses of the DNR Board, the Department's primary governing body.

10. Funding for the Council could be provided in a manner and at a level that is similar to other DNR advisory bodies. For example, \$9,500 could be provided to the Customer Assistance and External Relations (CAER) Division for member expenses. DNR could continue to allocate other funds to ISO 14000-related activities, in accordance with its allocation of \$27,100 during the past year.

11. The environmental management account of the environmental fund, which is the proposed source of the \$180,000 in funding for the biennium, will have an estimated deficit of \$420,000 on June 30, 1999, under SB 77. This is due to a reestimate of revenues that will be received from fees that are based on the number of tons of solid waste disposed of in the state, based on recent analysis of actual 1996 tonnage figures and trends over the last few years. If funding is not approved for the Council, the estimated deficit would decrease to \$240,000.

12. If funding for the Council is approved, other revenues may need to be provided to the environmental management account or expenditure reductions may be needed in programs that clean up contaminated land and groundwater. The Committee will be reviewing several other budget issue papers related to revenues and expenditures of the environmental management account. Examples of ways that the account deficit could be decreased include: (a) increasing the environmental repair tonnage fee for all solid waste disposed of in landfills as of the effective date of the bill (each 1¢ per ton increase would provide revenues of approximately \$119,600 in 1997-99, including \$32,600 in 1997-98 and \$87,000 in 1998-99); (b) decreasing funding for state-funded cleanup at sites where there is no responsible party able or willing to fund the cleanup; or (c) decreasing administrative staff that are funded from the account (approximately \$56,000 annually per position).

13. The Council could be created without SEG funding. Member expenses could be paid from existing administrative appropriations consistent with the manner in which the current DNR Board and other councils are funded. DNR costs related to staff support, travel, the multi-state working group, the Wharton School ISO 14000 Roundtable and other activities related to ISO 14000 or environmental management systems could be funded from existing departmental resources as they are currently. Further, the PR gifts and grants appropriation could be utilized to fund Council activities to the extent funds are available.

14. DNR does not have information about the amount of gifts and grants that could be expected, the source of potential gifts and grants, and the purpose for which persons might give money to the Council. DNR indicates that private companies interested in ISO 14000 might choose to give money to the Council.

15. While DNR would designate portions of at least two positions to support council activities, it is not known what level and type of staff support would be provided by DOA, Commerce and the UW System under the bill.

ALTERNATIVES TO BASE

A. Funding

1. Approve the Governor's recommendation to create an Environmental Performance Council in DNR, provide \$90,000 SEG annually from the environmental fund and create a PR appropriation for gifts and grants.

<u>Alternative A1</u>	<u>SEG</u>
1997-99 FUNDING (Change to Base)	\$180,000
[Change to Bill	\$0]

2. Modify the Governor's recommendation to: (a) provide \$9,500 SEG annually from the environmental fund to the CAER Division for member expenses; and (b) delete the separate SEG appropriation.

<u>Alternative A2</u>	<u>SEG</u>
1997-99 FUNDING (Change to Base)	\$19,000
[Change to Bill	- \$161,000]

3. Modify the Governor's recommendation to create the Council but delete the SEG funding and appropriation (this would retain creation of the PR appropriation for gifts and grants).

<u>Alternative A3</u>	<u>SEG</u>
1997-99 FUNDING (Change to Base)	\$0
[Change to Bill	- \$180,000]

4. Maintain current law.

<u>Alternative A4</u>	<u>SEG</u>
1997-99 FUNDING (Change to Base)	\$0
[Change to Bill	- \$180,000]

NATURAL RESOURCES

Environmental Performance Council [LFB Paper #631]

Motion:

Move to modify the Governor's recommendation to: (a) delete the Council; (b) delete the SEG appropriation and funding; and (c) modify the PR appropriation to authorize receipt of gifts and grants for the Department's activities related to environmental management systems and ISO 14000 standards for the purposes for which the gifts and grants are made.

Note:

The motion would delete the Council and environmental fund SEG funding. It would retain the PR appropriation with the modification that the appropriation accept gifts and grants for DNR activities related to environmental management systems and ISO 14000 standards

[Change to Base: \$0]

[Change to Bill: -\$180,000 SEG]

MO#

3026

1 BURKE	Y	N	A
2 DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON MURPHY	Y	N	A
COGGS	Y	N	A

AYE 10 NO 6 ABS 0

B. Membership

1. Approve the Governor's recommendation to have 11 members on the Council, including: (a) the Secretaries of Commerce, DNR and DOA or their designees; and (b) eight other members appointed by the Governor for four-year terms. The Governor would appoint a chairperson.

2. Modify the Governor's recommendations to replace five of the members appointed by the Governor as follows: (a) the President of the UW-System or her designee; and (b) one public member each designated by the Speaker and Minority Leader of the Assembly and one each designated by the Majority Leader and Minority Leader of the Senate (the Governor would make three appointments).

3. In addition to Alternative B2, allow the Council to appoint a chairperson.

C. Sunset Date

1. Approve the Governor's recommendation to establish a permanent Council.

2. Establish a sunset date for the Council of June 30, 2001.

MO# _____

BURKE	Y	N	A	
DECKER	Y	N	A	
GEORGE	Y	N	A	
JAUCH	Y	N	A	
WINEKE	Y	N	A	ud
SHIBILSKI	Y	N	A	
COWLES	Y	N	A	
PANZER	Y	N	A	

JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

AYE _____ NO _____ ABS _____

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Environmental Cooperation Program (DNR -- Water Quality)

[LFB Summary: Page 447, #23]

CURRENT LAW

No provision.

GOVERNOR

Direct DNR to enter into not more than ten cooperative agreements with persons who own or operate facilities that are required to be covered by licenses or permits under current law, such as water pollution discharge elimination permits, air pollution control permits and landfill operation licenses. Direct that any cooperative agreement would replace a license or permit identified in the cooperative agreement and provisions of the cooperative agreement would supersede provisions of identified licenses or permits. Direct that a person who enters into a cooperative agreement would pay the same fees under the cooperative agreement as under superseded licenses or permits. The agreement would be for a term of five years with a possible renewal of five years if DNR and the participant agree. Prohibit DNR from entering into an initial agreement after five years after the effective date of the bill.

A cooperative agreement must: (a) require the participant to implement an environmental management system, such as those based on "ISO 14000," (an internationally promoted, semi-privatized comprehensive environmental regulation project) under which the participant completes performance evaluations of the effects that the covered facility has on the environment and makes measurable or noticeable improvements in those effects through planning and changes in the facility's operations; (b) contain pollution limits that are at least as stringent as the pollution

limits under current law; and (c) involve interested persons in reviewing the participant's performance under the agreement.

Authorize DNR to grant variances from current permit requirements in a cooperative agreement if the variances: (a) promote the reduction in overall pollution levels below the levels required in statutes; or (b) provide for alternative monitoring, testing, record keeping, notification or reporting requirements that reduce the administrative burden on state agencies or the participant and that provide information needed to ensure compliance with the agreement, statutes and rule.

Direct program participants to complete evaluations of their environmental performance, and report to the DNR within 45 days if any violations are found. Direct the participant to correct the violations within 90 days of submitting the report or within a compliance schedule approved by DNR. Prohibit DNR from commencing a civil action for violations if the participant corrects violations within 90 days after DNR receives the report, unless the violations present an imminent threat to public health or the environment, or if DNR discovers the violations before the participant notifies DNR.

Direct that records, reports or other information received as part of the program are public records, except for certain proprietary or confidential information. Direct DNR to submit to the Governor, Environmental Performance Council and the Legislature an annual progress report and, within four years, a report that includes recommendations concerning the continuation of the program and any changes that should be made to the program.

DISCUSSION POINTS

1. The Budget in Brief indicates that the bill would enhance national and international competitiveness of certain Wisconsin businesses by consolidating regulatory and permitting requirements. The ten businesses that DNR would select for environmental cooperation agreements would have to establish an environmental management system consistent with the International Organization for Standardization guidelines (ISO 14000) or an equivalent system. ISO 14000 is a series of voluntary guidelines related to environmental management systems, environmental auditing, environmental performance evaluation and total quality improvement.

2. Cooperative agreements could affect several DNR permits, licenses and other approvals required by the Department. Examples of some of the permits that could be included in cooperative agreements and the number issued in 1995-96 are: (a) the Wisconsin Pollution Discharge Elimination System (WPDES) permits (363); (b) stormwater-related construction permits (350); (c) air emissions-related construction permits (162); (d) air emissions-related operating permits (154); and (e) industrial stormwater permits (130). Information is not available about how many existing permits or licenses would be replaced by the 10 cooperative agreements entered into under the bill.

3. DNR would decide the facilities with which to enter into cooperative agreements. The Department would be required to seek to ensure participation by a variety of types, sizes and locations of facilities and consult with the federal Environmental Protection Agency (EPA).

4. DNR indicates that companies would be chosen to participate in cooperative environmental agreements through a solicitation for pilot project volunteers and that likely candidates would be companies that are considering obtaining independent certification that their environmental management practices meet ISO 14000 guidelines. DNR also plans to seek other volunteers through various trade association newsletters. The Department indicates that it would enter into cooperative agreements with companies that are in compliance with current licenses and permits.

5. The bill would direct that cooperative agreements specify any approvals and provisions of approvals that are replaced by the cooperative agreement. DNR indicates that the agreements would overlay permits and approvals that a company has and may modify or replace certain permits or approvals or parts of approvals. When the term of the agreement expires, the agreement would continue to apply until DNR would issue approvals for licenses or permits that would be needed under existing state law.

6. The statutes refer to the program as a pilot. The restrictions on the duration of the program are the requirements that DNR enter into no more than 10 cooperative agreements and that DNR not enter into an initial agreement after five years after the effective date of the biennial budget act. The bill would authorize the initial agreement to have a term of five years and authorize a renewal of five years if DNR and the participant agree. Thus, if DNR enters into the tenth cooperative agreement in 2002 (in five years), the agreement could last until 2012 (including the five-year term and a five-year renewal).

7. The agreement would be required to contain pollution limits at least as stringent as current law. However, DNR could authorize variances that allow levels of some pollutants to increase. An agreement could, for example, authorize a facility to increase discharges of air emissions and decrease wastewater discharges (or the other way around) or to increase the discharge of one type of pollutant into the water and decrease the discharge of another type of water pollutant. DNR and the business would determine which pollutants may be allowed to increase and which to decrease from current standards. DNR would be authorized to grant variances to current requirements that either: (a) promote a reduction in overall pollution levels; or (b) provide alternative requirements that reduce administrative burdens on the state or participant. A "no net gain" or pollution reduction requirement is not included in the bill.

8. To the extent that agreements allow a facility to exceed current emission levels for certain pollutants and specify reductions in others, it is unclear how a "no increase," or a net reduction, of overall pollutant discharges by the facility, if required by the agreement, would be determined by DNR. It is not clear how DNR enforcement of the agreements might differ from

enforcement of existing permits and licenses or how the agreements would prevent an increase in pollution discharges by the facility.

9. It could be argued that issuance of 10 cooperative agreements will provide useful information about the potential for consolidating regulatory and permitting requirements for other permitted facilities. Alternatively, it could be argued that 10 cooperative agreements may be too few to allow a sufficient test of the program, and the length of the pilot (up to 15 years) may make evaluation difficult.

ALTERNATIVES TO BASE

1. Approve the Governor's recommendation to create an environmental cooperation program and enter into not more than 10 environmental cooperative agreements.

2. Approve the Governor's recommendation, as modified in one or both of the following ways:

a. Limit the length of agreements to a single five-year term (no extension).

b. Require that any variances granted to current statutes or rules result in a measurable reduction in overall pollution levels by the participant.

3. Maintain current law.

MO# _____

BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

Prepared by: Kendra Bonderud

JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

AYE _____ NO _____ ABS _____

NATURAL RESOURCES

Environmental Cooperation Program [LFB Paper 632]

Motion:

Move to approve the Governor's recommendation, as modified to:

1. Limit the length of agreements to a single five-year term, but allow the participant to submit a request for one five-year extension. Direct DNR to submit the requested extension to the Joint Committee on Finance for approval, and specify that if, within 14 days of submittal of the request, the Committee does not object or decide to hold a meeting to consider the request, the requested extension shall be approved.

~~2. Prohibit DNR from entering into more than five initial agreements.~~

3. Require that any variances granted to current statutes or rules result in a measurable reduction in overall pollution levels by the participant.

4. Direct the Legislative Audit Bureau to monitor the program and to submit annual reports to the Legislature regarding the findings of its monitoring of the program.

Note:

The bill would allow cooperative agreements to have a five-year term, with one five-year extension approved by DNR. The motion would require that the extension be approved only if DNR obtains the approval of the Joint Committee on Finance under a 14-day passive review process.

The bill would prohibit DNR from entering into more than 10 agreements. The motion would reduce that number to five.

The bill would authorize DNR to grant variances to current requirements that either: (a) promote a reduction in overall pollution levels; or (b) provide alternative requirements that reduce administrative burdens on the state or participant and provides information needed to ensure compliance with the agreement and the provisions of statutes and rules for which the agreement

does not grant a variance. The motion would require that in addition to these requirements, variances must result in a measurable reduction in overall pollution levels by the participant.

The bill would direct DNR to submit to the Governor, Environmental Performance Council and the Legislature an annual progress report and, within four years, a report that includes recommendations concerning the continuation of the program and any changes that should be made to the program. The motion would add a requirement that the Legislative Audit Bureau annually monitor the program and submit a report on its findings to the Legislature.

MO# 3025

1 BURKE	<input checked="" type="radio"/>	N	A
DECKER	<input checked="" type="radio"/>	N	A
GEORGE	<input checked="" type="radio"/>	N	A
JAUCH	<input checked="" type="radio"/>	N	A
WINEKE	<input checked="" type="radio"/>	N	A
2 SHIBILSKI	<input checked="" type="radio"/>	N	A
COWLES	<input checked="" type="radio"/>	N	A
PANZER	<input checked="" type="radio"/>	N	A
JENSEN	<input checked="" type="radio"/>	N	A
OURADA	<input checked="" type="radio"/>	N	A
HARSDORF	<input checked="" type="radio"/>	N	A
ALBERS	<input checked="" type="radio"/>	N	A
GARD	<input checked="" type="radio"/>	N	A
KAUFERT	<input checked="" type="radio"/>	N	A
LINTON MURPHY	<input checked="" type="radio"/>	N	A
COGGS	<input checked="" type="radio"/>	N	A

AYE 13 NO 3 ABS 0

Shibilski Friendly
amendment
(Strike # #2)

NATURAL RESOURCES

Environmental Cooperation Program [LFB Paper #632]

Motion:

Move to make the following changes to the environmental cooperation program:

1. Specify that the definition of "interested person" includes a person's representatives, in addition to a person who is or may be affected by the activities at a facility that is covered or proposed to be covered by a cooperative agreement.
2. Direct DNR to encourage facility owners and operators to minimize transfers of waste discharges between air, water and land.
3. Direct DNR to grant the owners and operators of facilities greater flexibility, rather than greater operational flexibility, than would otherwise be allowed under statutes and rules.
4. Direct that a cooperative agreement shall commit the participant to achieving measurable or noticeable improvements in environmental performance, in addition to superior environmental performance.
5. Direct DNR to review each application submitted rather than each proposed agreement submitted.
6. Specify that DNR shall determine that the applicant's efforts related to the process used to establish an interested persons group, rather than determine that the efforts related to granting a variance, were adequate.
7. Specify that the cooperative agreement is subject to review under Chapter 227 procedures (such as administrative hearings, appeals, contested cases and judicial review). Maintain the SB 77 requirement that the decision by DNR to enter into a cooperative agreement is not subject to review under Chapter 227.
8. Specify that when a cooperative agreement replaces an approval and the agreement expires before DNR issues an approval to be in place after the agreement expires, the agreement shall continue to apply until the approval is issued. Delete the SB 77 authorization for DNR and the participant to agree to interim requirements that do not allow pollution in excess of that allowed under chapters 280 to 295.

9. Rather than requiring DNR to keep confidential any part of a record, report or other information obtained in the administration of the program that the applicant or participant identifies as confidential and proprietary and entitled to protection as a trade secret, specify that the Department shall keep the information confidential upon a showing satisfactory to the Department by any person that the part of a record, report or other information would, if made public, divulge a method or process that is entitled to protection as a trade secret.

MO# 3024

1 BURKE	(Y)	N	A
2 DECKER	(Y)	N	A
GEORGE	(Y)	N	A
JAUCH	(Y)	N	A
WINEKE	(Y)	N	A
SHIBILSKI	(Y)	N	A
COWLES	(Y)	N	A
PANZER	(Y)	N	A
JENSEN	(Y)	N	A
OURADA	(Y)	N	A
HARSDORF	(Y)	N	A
ALBERS	(Y)	(N)	A
GARD	(Y)	N	A
KAUFERT	(Y)	N	A
LINTON MURAT	(Y)	N	A
COGGS	(Y)	N	A

AYE 15 NO 1 ABS 0

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Safe Drinking Water Loan Program Administration (DNR - Water Quality)

[LFB Summary: Page 440, #13]

MODIFICATION TO BASE

Transfer \$133,700 FED in 1997-98 and \$144,800 FED in 1998-99 with 3.0 positions annually from clean water fund administrative appropriations to safe drinking water loan program administrative appropriations.

Explanation: SB 77 erroneously places the funding and positions for the proposed safe drinking water loan program in the existing clean water fund administrative appropriations instead of the safe drinking water loan program appropriations.

MO#

modifications

2 BURKE	<input checked="" type="radio"/>	N	A
DECKER	<input checked="" type="radio"/>	N	A
GEORGE	<input checked="" type="radio"/>	N	A
JAUCH	<input checked="" type="radio"/>	N	A
WINEKE	<input checked="" type="radio"/>	N	A
SHIBILSKI	<input checked="" type="radio"/>	N	A
COWLES	<input checked="" type="radio"/>	N	A
PANZER	<input checked="" type="radio"/>	N	A
JENSEN	<input checked="" type="radio"/>	N	A
OURADA	<input checked="" type="radio"/>	N	A
HARSDORF	<input checked="" type="radio"/>	N	A
ALBERS	<input checked="" type="radio"/>	N	A
GARD	<input checked="" type="radio"/>	N	A
KAUFERT	<input checked="" type="radio"/>	N	A
EINTON <i>MURAT</i>	<input checked="" type="radio"/>	N	A
COGGS	<input checked="" type="radio"/>	N	A

Prepared by: Kendra Bonderud

AYE 16 NO 0 ABS 0

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Septage Management Funding Conversion (DNR -- Water Quality)

[LFB Summary: Page 443, #18]

CURRENT LAW

DNR's wastewater management activities are funded from GPR. Municipalities and industries pay NR 101 wastewater discharge fees which are deposited in the general fund and are capped at \$7.45 million annually. DNR also has a program revenue continuing appropriation which receives all revenues from the certification of operators of water systems, wastewater treatment plants and septage servicing vehicles and license fees for septage servicing vehicles and septage disposal sites. The fees are established in statute. The appropriation may be used for wastewater management activities. The appropriation has no expenditure authority in 1996-97 but DOA has authorized use of \$185,000 for computer contractors to develop a landspreading database to track septage, sludge and other wastes that are spread on land for disposal and for limited-term employee wastewater program assistance.

In 1996-97, DNR's GPR wastewater management appropriation includes funding for 12 positions who administer provisions related to landspreading of sewage and industrial wastewaters, including on-site inspections of landspreading sites. Four of the 12 positions work on septage management activities.

GOVERNOR

Convert \$107,800 GPR and 2.0 GPR positions annually from GPR to PR in the septage management program. Funding would be provided from the existing wastewater management fees program revenue appropriation.

DISCUSSION POINTS

1. The existing program revenue appropriation will receive approximately \$155,000 annually during 1997-99. Revenues during 1996-97 were \$168,100 as of May 16, 1997. The July 1, 1997, appropriation account balance is estimated to be \$253,300. Under the bill, conversion of two septage management positions would result in a June 30, 1999, appropriation account balance of approximately \$342,000.
2. The appropriation includes revenues from septage management activities and the converted positions would perform activities related to septage management.
3. The bill includes conversion of \$1,600 GPR annually to PR for supplies and services such as travel, training, equipment and office supplies for the two converted positions. The GPR positions are currently provided approximately \$12,000 annually in supplies and services. Conversion of an additional \$22,400 GPR annually to PR would provide \$12,000 annually per position for supplies and services. Expenditures, including pay plan reserves, would be \$132,100 in 1997-98 and \$134,000 in 1998-99, which is less than annual estimated revenues of \$155,000. The estimated June 30, 1999, appropriation account balance would be \$297,200.
4. There is sufficient program revenue to convert an additional septage management position from GPR to PR, which would result in GPR savings of \$74,900 annually.
5. Conversion of a third position would result in expenditures, including pay plan reserves, of approximately \$208,100 in 1997-98 and \$211,200 in 1998-99. Expenditures would exceed annual revenues by approximately \$56,000 in 1998-99. However, the appropriation account would have a June 30, 1999, balance of approximately \$144,000. This balance should fund the three positions through the 1999-2001 biennium.

ALTERNATIVES TO BASE

1. Approve the Governor's recommendation to convert \$107,800 and 2.0 positions annually from GPR to PR in the septage management program.

<u>Alternative 1</u>	<u>GPR</u>	<u>PR</u>	<u>TOTAL</u>
1997-99 FUNDING (Change to Base)	- \$215,600	\$215,600	\$0
[Change to Bill]	\$0	\$0	\$0]
1998-99 POSITIONS (Change to Base)	- 2.00	2.00	0.00
[Change to Bill]	0.00	0.00	0.00]

2. Approve the Governor's recommendation. Further, convert an additional \$22,400 annually from GPR to PR for supplies for the two positions.

<u>Alternative 2</u>	<u>GPR</u>	<u>PR</u>	<u>TOTAL</u>
1997-99 FUNDING (Change to Base)	- \$260,400	\$260,400	\$0
[Change to Bill]	- \$44,800	\$44,800	\$0]
1998-99 POSITIONS (Change to Base)	- 2.00	2.00	0.00
[Change to Bill]	0.00	0.00	0.00]

3. Approve the Governor's recommendation. Further, convert an additional \$97,300 and 1.0 position annually from GPR to PR in the septage management program (\$74,900 for the additional position and \$22,400 for supplies for the two positions converted under the bill).

<u>Alternative 3</u>	<u>GPR</u>	<u>PR</u>	<u>TOTAL</u>
1997-99 FUNDING (Change to Base)	- \$410,200	\$410,200	\$0
[Change to Bill]	- \$194,600	\$194,600	\$0]
1998-99 POSITIONS (Change to Base)	- 3.00	3.00	0.00
[Change to Bill]	- 1.00	1.00	0.00]

4. Maintain current law.

<u>Alternative 4</u>	<u>GPR</u>	<u>PR</u>	<u>TOTAL</u>
1997-99 FUNDING (Change to Base)	\$0	\$0	\$0
[Change to Bill]	\$215,600	- \$215,600	\$0]
1998-99 POSITIONS (Change to Base)	0.00	0.00	0.00
[Change to Bill]	2.00	- 2.00	

Prepared by: Kendra Bonderud

MO# 443

2 BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Wastewater Discharge Environmental Fees (DNR -- Water Quality)

CURRENT LAW

Annual wastewater discharge environmental fees (known as NR 101 fees) are assessed to municipal and industrial dischargers. DNR is required to design the fees to generate revenues equal to the following amounts appropriated in the Division of Environmental Quality GPR, general program operations appropriation: (a) 100% of the amount appropriated for wastewater management; (b) 50% of the amount appropriated for technical services; (c) 100% of the amount related to surface water standards and monitoring; (d) none of the amount related to nonpoint source pollution control and lakes management; and (e) 50% of the balance for the fiscal year in which the fee is collected. The total fees are capped at the \$7,450,000 which was charged for 1992-93. Municipal wastewater dischargers pay 50% of the total fees and other dischargers (mainly paper mills, power utilities, food processing facilities and other industries that generate wastewater) pay the remaining 50% of the fees. The fees are deposited to the general fund.

GOVERNOR

No provision.

DISCUSSION POINTS

1. Under the DNR reorganization, the Division of Environmental Quality GPR, general program operations appropriation was restructured. The activities that are partially funded by wastewater discharge NR 101 fees were moved to the Water Division's subprograms for watershed management and water operations and the Enforcement and Science Division's

subprogram for integrated science services. However, the Governor's budget recommendations for restructuring the appropriations in accordance with the new divisions and subprograms did not include restructuring the statutory fee language to match the new appropriations. Thus, the current references to programs covered by the fee are no longer accurate.

2. DNR recommends that the statutory fee language could be amended to cover the same activities under the reorganization as under the current fee language. The Department's recommended language change would be to design fees that generate revenues equal to 85% of the amount appropriated under the Water Division's GPR, general program operations appropriation for watershed management, 50% of the amount appropriated for general water program management and 25% of the amount appropriated under the Enforcement and Science Division's GPR, general program operations appropriation for integrated science services. The DNR recommendation would retain the 50%/50% distribution of fees between municipalities and industries.

3. In 1997-99, approximately \$9,485,000 GPR annually would be appropriated for these activities, approximately \$2 million less than the fees generate. The statutes cap the fees at the \$7,450,000 charged in 1992-93. Since the fee cap provides less NR 101 fee revenues than are appropriated for activities related to the fees (approximately 79% of actual costs), a simpler way to conform the statutes with the DNR reorganization would be to place the \$7,450,000 fee cap in the statute instead of revising the language related to activities funded from the fees. That is, since its creation, the statutory formula has not been used due to the \$7,450,000 cap.

4. When the current \$7,450,000 cap was set in 1992-93, it represented approximately 80% of the \$9,300,000 of costs for the identified activities, with the remaining costs paid by the general fund. Use of the general fund for these water pollution prevention programs reflects the overall benefit to the people of the state. Costs have increased to approximately \$9,485,000 annually under the bill (reduction measures and conversion of costs from GPR to PR were included in the 1995-97 budget and in SB 77 that limited GPR cost increases). It could be argued that the statutory cap should be modified to be set at 80% of the costs of the identified activities. Since the current cap would provide approximately 79% of the \$9,485,000 annual costs in 1997-99, a modification to 80% of costs would result in increased fees of approximately \$140,000 annually in 1997-99 and fees would increase from \$7,450,000 to an estimated \$7,590,000 in each year.

5. It could be argued that the statutory cap should be adjusted to offset a larger portion of program costs. The consumer price index (CPI) could be used to adjust the statutory cap to generally reflect the increasing costs of the administration of state programs. Based on increases in the CPI since 1992, indexing of the statutory cap would result in fees of approximately \$8,540,000 in 1997-98 and \$8,760,000 in 1998-99. The indexing of fees would result in NR 101 fees during 1997-99 that offset approximately 91% of the costs of activities funded from the fees.

6. Others believe that the statutory cap should be removed and NR 101 fees should be set to fully fund appropriations offset by the fee. Removal of the statutory cap would result in an increase of \$2,035,000 annually in revenues to the general fund. DNR would assess approximately \$9,485,000 in NR 101 fees in each year of the biennium (an increase of 27%).

ALTERNATIVES TO BASE

1. Consistent with the current requirement, direct DNR to design annual wastewater discharge fees that generate revenues equal to 85% of the amount appropriated under the Water Division's GPR, general program operations appropriation for watershed management, 50% of the amount appropriated under the same appropriation for water program management and 25% of the amount appropriated under the Enforcement and Science Division's GPR, general program operations appropriation for integrated science services. Specify that the fees could not exceed the amount charged in 1992-93 (\$7,450,000). Retain the current allocation of 50% of fees paid by municipalities and 50% paid by industries.

2. Delete the current provisions related to the amount of annual wastewater discharge fees charged. Instead specify that DNR may not charge annual wastewater discharge fees that exceed \$7,450,000 (the amount charged 1992-93). Retain the current allocation of 50% of fees paid by municipalities and 50% paid by industries.

3. Approve Alternative 1, except require the fees assessed to equal 80% of the costs calculated under the statutory formula (rather than being capped at \$7,450,000). This would result in an increase in NR 101 fees of approximately \$140,000 annually in 1997-99.

<u>Alternative 3</u>	<u>GPR</u>
1997-99 REVENUE (Change to Base)	\$280,000
[Change to Bill]	\$280,000]

4. Approve Alternative 1. In addition, direct DNR to annually modify the statutory cap based on the change during the prior calendar year in the U.S. consumer price index for all urban consumers, U.S. city average as determined by the U.S. Department of Labor. This would result in an increase in NR 101 fees of approximately \$1,090,000 in 1997-98 and \$1,310,000 in 1998-99.

<u>Alternative 4</u>	<u>GPR</u>
1997-99 REVENUE (Change to Base)	\$2,400,000
[Change to Bill]	\$2,400,000]

5. Approve Alternative 1, except delete the statutory cap on the amount of fees charged in any year. This would result in an increase in NR 101 fees of approximately \$2,035,000 in each year of the biennium (from \$7,450,000 to \$9,485,000).

<u>Alternative 5</u>	<u>GPR</u>
1997-99 REVENUE (Change to Base)	\$4,070,000
[Change to Bill	\$4,070,000]

MO# Alt 2

Prepared by: Kendra Bonderud

2 BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
1 JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

AYE 16 NO 0 ABS 0

NATURAL RESOURCES

Water Quality

LFB Summary Items for Which No Issue Papers Have Been Prepared

approve all items
MO# except #14

<u>Item #</u>	<u>Title</u>			
4	Nonpoint Source Staff Reductions	BURKE	<input checked="" type="radio"/> Y	N A
5	Repayment of Nonpoint Source Grant Advances	DECKER	<input checked="" type="radio"/> Y	N A
6	Great Lakes Remediation Bonding	GEORGE	<input checked="" type="radio"/> Y	N A
7	Surface Water Data System Integration	JAUCH	<input checked="" type="radio"/> Y	N A
8	Stormwater Funding Conversion	WINEKE	<input checked="" type="radio"/> Y	N A
10	Reduce Local Water Quality Planning Aids	SHIBILSKI	<input checked="" type="radio"/> Y	N A
14	Safe Drinking Water Enforcement	COWLES	<input checked="" type="radio"/> Y	N A
15	Wastewater Permit Information Technology System	PANZER	<input checked="" type="radio"/> Y	N A
16	Wastewater Permit Staff Reduction	JENSEN	<input checked="" type="radio"/> Y	N A
17	Operator Certification Program Reduction	OURADA	<input checked="" type="radio"/> Y	N A
		HARSDORF	<input checked="" type="radio"/> Y	N A
		ALBERS	<input checked="" type="radio"/> Y	N A
		GARD	<input checked="" type="radio"/> Y	N A
		KAUFERT	<input checked="" type="radio"/> Y	N A
		LINTON	<input checked="" type="radio"/> Y	N A
		COGGS	<input checked="" type="radio"/> Y	N A

LFB Summary Items to be Addressed in Subsequent

AYE 16 NO 0 ABS 0

<u>Item #</u>	<u>Title</u>
11	Well Compensation Fee
12	Well Compensation Grants

LFB Summary Item for Introduction as Separate Legislation

<u>Item #</u>	<u>Title</u>
9	Land and Water Conservation Board